

REMARKS

Summary of the Office Action and this Amendment

In paragraph 7 of the office action, the examiner states:

Regarding claims 1-57 i.e., the claims are considered to be nonstatutory. Applicant's claim to a signal bearing medium is considered to be broad enough to include a transient carrier wave which is not fixed in a tangible medium readable by a machine. For this reason the claims are rejected under 35 U.S.C. § 101.

In paragraph 10 of the office action, the examiner states:

Claims 1, 39, 44, 57-63 are rejected under 35 U.S.C. 102(b) as being anticipated by *Hutchison* (USPN 5,802,506).

In this Amendment, the applicant has amended claims 1-57. Support for the amendments can be found, for example, in the specification in paragraphs 19, 22, 23, and 25. No new matter has been added. Claims 1-63 are now pending in the application.

Claim Rejections - 35 U.S.C. 101

As mentioned above, in paragraph 7 of the office action, the examiner states:

Regarding claims 1-57 i.e., the claims are considered to be nonstatutory. Applicant's claim to a signal bearing medium is considered to be broad enough to include a transient carrier wave which is not fixed in a tangible medium readable by a machine. For this reason the claims are rejected under 35 U.S.C. § 101.

Herein claims 1-56 have been amended to recite a "computer readable storage medium", rather than a "signal bearing medium", and claim 57 has been amended to recite "A computer readable storage medium tangibly embodying a program of machine-readable instructions", rather than "A computer data signal embodied in a carrier wave embodying a program of machine-readable instructions". Consequently, claims 1-56 as amended herein do not recite "a signal bearing medium", and claim 57 as amended herein no longer recites "a computer data signal embodied in a carrier wave". In conclusion, the applicant submits that claims 1-57 as amended herein are directed to statutory subject matter, and that the rejection of claims 1-57 under 35 U.S.C. 101 should be withdrawn.

Claim Rejections - 35 U.S.C. 102

a. Legal Criteria 35 U.S.C. 102

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). . . . "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

MPEP § 2131 (8th ed., rev. 5, Aug. 2006).

b. Discussion Regarding the 35 U.S.C. 102 Rejections

As mentioned above, in paragraph 10 of the office action, the examiner states:

Claims 1, 39, 44, 57-63 are rejected under 35 U.S.C.
102(b) as being anticipated by *Hutchison* (USPN 5,802,506).

Claims 1, 39, 44, 50, 51, 57, 58, 60, 61, 62, and 63 are the independent claims currently pending in the application.

Claims 50-56, and claims 2-38, and claims 40-43, and claims 45-49:

In the office action, independent claims 50 and 51 were rejected under 35 U.S.C. 101, but were not rejected under 35 U.S.C. 102. Likewise, dependent claims 52-56, which are dependent upon claim 51, were rejected only under 35 U.S.C. 101. Further, dependent claims 2-38, which are dependent upon claim 1, and dependent claims 40-43, which are dependent upon claim 39, and dependent claims 45-49, which are dependent upon claim 44, were rejected only under 35 U.S.C. 101. In light of the discussion above regarding the 35 U.S.C. 101 rejections, the applicant submits that claims 50-56, 2-38, 40-43, and 45-49 are directed to statutory subject matter and should be allowable.

Independent claims 1, 39, 44, 57, 58, 60, 61, 62, and 63:

As mentioned above, independent claims 1, 39, 44, 57, 58, 60, 61, 62, and 63 were rejected under 35 U.S.C. 102. The applicant submits that claims 1, 39, 44, 57, 58, 60, 61, 62, and 63 include limitations that are not described in the references, as will be discussed immediately below.

Claim 1:

The applicant submits that claim 1, includes at least the following limitations that are not described in the references:

applying at least one behavioral operator;

analyzing the data, wherein the operation of analyzing the data comprises detecting if there are any anomalies in the data;

With regard to the claim limitation “analyzing the data, wherein the operation of analyzing the data comprises detecting if there are any anomalies in the data”, the examiner cites “C4, L60, to C5, L55, FIG. 4, C8, L25 to C9, L33” of Hutchison. The applicant submits that the cited portion of Hutchison, and Hutchison in general, in no way describe the claim limitation “analyzing the data, wherein the operation of analyzing the data comprises detecting if there are any anomalies in the data”. The applicant submits that there is no mention of anomalies in Hutchison.

Further, the applicant submits that Hutchison does not describe “applying at least one behavioral operator”.

Claim 39:

The applicant submits that claim 39, includes at least the following limitations that are not described in the references:

applying at least one behavioral operator;

...

adjusting at least one behavioral operator based on the feedback received regarding the outputted results; and

analyzing the data, wherein the operation of analyzing the data comprises generating at least one machine generated mathematical model to explain outcomes.

With regard to the claim limitation “adjusting at least one behavioral operator based on the feedback received regarding the outputted results”, the applicant submits that Hutchison in no way describes “adjusting at least one behavioral operator based on the feedback received regarding the outputted results”.

Claim 44:

The applicant submits that claim 44, includes at least the following limitations that are not described in the references:

- checking integrity of the data;
- applying at least one behavioral operator;
- using machine learning to detect if there are any anomalies in the data;
- ...
- proactively generating at least one suggestion;
- outputting the at least one generated suggestion; and
- soliciting feedback concerning the at least one generated suggestion.

With regard to the claim limitation “checking integrity of the data”, the examiner cites “C4, L60, to C5, L55, FIG. 4, C8, L25 to C9, L33” of Hutchison. The applicant submits that the cited portion of Hutchison, and Hutchison in general, in no way describes the claim limitation “checking integrity of the data”. Further, the applicant submits that the discussion above regarding the term “anomalies” in claim 1 is also generally applicable to claim 44.

Claim 57:

The applicant submits that claim 57, includes at least the following limitations that are not described in the references:

- applying at least one behavioral operator;
- detecting if there are any anomalies in the data;

The applicant submits that the discussion above regarding the term “anomalies” in claim 1 is also generally applicable to claim 57.

Claim 58:

The applicant submits that claim 58, includes at least the following limitations that are not described in the references:

applying at least one behavioral operator;

...

adjusting at least one behavioral operator based on the feedback received regarding the outputted results; and

analyzing the data, wherein the operation of analyzing the data comprises generating at least one machine generated mathematical model to explain outcomes.

The applicant submits that the discussion above regarding the limitation “adjusting at least one behavioral operator based on the feedback received regarding the outputted results” in claim 39 is also generally applicable to claim 58.

Claim 60:

The applicant submits that claim 60, includes at least the following limitations that are not described in the references:

means for applying at least one behavioral operator;

...

means for proactively generating at least one suggestion;

means for outputting the at least one generated suggestion;

and

means for soliciting feedback concerning the at least one generated suggestion.

Further, the applicant submits that the examiner has not addressed the following limitations of claim 60 in the office action:

means for proactively generating at least one suggestion;

means for outputting the at least one generated suggestion;
and
means for soliciting feedback concerning the at least one
generated suggestion.

Claim 61:

The applicant submits that claim 61, includes at least the following limitations that are not described in the references:

applying at least one behavioral operator;
analyzing the data, wherein the operation of analyzing the
data comprises detecting if there are any anomalies in the data;

The applicant submits that the argument above with regard to claim 1 concerning the limitation “analyzing the data, wherein the operation of analyzing the data comprises detecting if there are any anomalies in the data”, is also applicable to claim 61. There is no mention of anomalies in Hutchison.

Claim 62:

The applicant submits that claim 62, includes at least the following limitations that are not described in the references:

applying at least one behavioral operator;
...
analyzing the data, wherein the operation of analyzing the
data comprises generating at least one machine generated
mathematical model to explain outcomes.

Claim 63:

The applicant submits that claim 63, includes at least the following limitations that are not described in the references:

checking integrity of the data;
applying at least one behavioral operator;
generating at least one machine generated mathematical
model to explain outcomes;
...
proactively generating at least one suggestion;
outputting the at least one generated suggestion; and
soliciting feedback concerning the at least one generated
suggestion.

The applicant submits that the discussion above regarding claim 44 concerning the limitation “checking the integrity of the data”, is also generally applicable to claim 63. Further, the applicant submits that the examiner has not addressed the following limitations of claim 63 in the office action:

proactively generating at least one suggestion;
outputting the at least one generated suggestion; and
soliciting feedback concerning the at least one generated
suggestion.

Dependent Claims

As discussed above, dependent claims 2-38, 40-43, 45-49, and 52-56, were rejected only under 35 U.S.C. 101, and were not rejected under 35 U.S.C. 102. The applicant agrees that these dependent claims are novel. In this regard, the applicant wishes to point out the limitations of the following exemplary dependent claims:

Claim 17 (which is dependent upon claim 1): “performing data integrity testing on a detected anomaly.”

Claim 18 (which is dependent upon claim 1): “generating an alert concerning a detected anomaly.”

Claim 19 (which is dependent upon claim 1): “altering at least one operational rule based on a detected anomaly.”

Claim 29 (which is dependent upon claim 1): “wherein the operation of outputting results comprises outputting information configured to indicate membership in at least one membership function in a plurality of membership functions.”

Claim 30 (which is dependent upon claim 1): “wherein the operation of outputting results comprises outputting information configured to display a plurality of membership functions and an indicator showing a relationship between the results and the membership functions.”

Claim 43 (which is dependent upon claim 39): “wherein the operation of analyzing the data comprises detecting if there are any anomalies in the data.”

Also, the applicant submits that the following limitations of dependent claim 59, which was rejected under 35 U.S.C. 102, are not addressed by the examiner in the office action, (and the applicant further submits that these limitations are not described in the references):

“proactively generating at least one suggestion;
outputting the at least one generated suggestion; and
soliciting feedback concerning the at least one generated suggestion.”

Thus, claim 59 should be allowable.

Further, the dependent claims are novel for at least the reasons that their respective independent claims are novel. Some of the claim amendments in this amendment were made to correct typographical errors and to clarify the wording.

Conclusion

The applicant submits that, in view of the amendments to the claims herein, all of the claims are clearly directed to statutory subject matter. It follows that claims 2-38, 40-43, 45-49, and 50-56, which were rejected only under 35 U.S.C. 101, should now be allowable. Further, the applicant submits that all of the claims presented herein are novel and nonobvious, and consequently, all of the pending claims should be allowable. Thus, the applicant submits that the application is in condition for allowance, and the applicant requests reconsideration and further examination, and allowance of the application.

Respectfully submitted,

/Tim Ellis/

Timothy N. Ellis
Reg. No. 41,734
Attorney for Applicant
telephone (858)455-7977